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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Lynn Tilton

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EXAMINER

COLBERT, ELLA

ART UNIT

PAPER NUMBER

3696

MAIL DATE

DELIVERY MODE

05/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/621,443	TILTON, LYNN	
	Examiner	Art Unit	
	Ella Colbert	3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-75 is/are pending in the application.
- 4a) Of the above claim(s) 41-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 52-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 41-75 were pending. Claims Group II, claims 52-75 were elected with traverse in Response to the Election/Restriction Requirement and Request for Extension of Time filed 12/17/08. The Election of Group II, Claims 52-75 will be addressed in the section of this Office Action entitled "Answer to Arguments with Traverse". Claims 52-75 will be examined on the merits and claims 41-51 are withdrawn from further consideration.

Claim Objections

Claims 52- 54, 57, 59-61, 69, 71, and 72 are objected to because of the following informalities: Claim 52 recites "30%" which should be written as "thirty percent (30%)". Claim 52 also recites "creating a computerized data base, comprising tabulated data including:" This claim limitation should recite "creating a computerized data base, comprising tabulated information including:" Claim 61 has a similar problem. Claim 53 needs an "and" after "portfolio;" and before "the SPE". Claim 54 recites "collecting payments ... on the securities at has issued". This line should recite "collecting payments ... on the securities that have issued". Claim 69 has a similar problem. Claim 57 recites "30" which should be written as "thirty (30)". Claim 71 has a similar problem. Claims 59 and 72 recite "12" which should be written as "twelve (12)". Claim 60 recites "5%" which should be written as "five percent (5%)". Appropriate correction is required.

Specification

The Specification is objected to because In the section of the specification CROSS REFERENCE TO RELATED APPLICATIONS it is noted that application 10/053,925 now Patent no. 6,654,727 is not mentioned. Also, the title of the invention, CROSS REFERENCE TO RELATED APPLICATIONS, BACKGROUND OF THE INVENTION, and 1. FIELD OF THE INVENTION begin about the middle of page 1 which is improper. The margins should be as follows: top margin: 1 inch; bottom margin: 3/8 inch; right side margin: 5/8 inch; and left side margin: 1 inch. [0047] recites steps 110-118 but the drawing figure only shows steps 110, 112, 114, 116, and 118. Page 21 [0061] has the acronym "LTM" which should be written as "Loan to Month (LTM)". Page 16 [0051] recites steps 130-134 but the drawing figure 2B only shows steps 130, 132, and 134. Page 27, line 9 recites fields 320-328 but the drawing figure 8 shows fields 320, 322, 324, 326, and 328. Page 27 [0071] figure 9 recites fields 332-340 and figure 9 shows fields 332, 333, 334, 336, 338, and 340. Page 28 [0072], line 8 should recite "Turning to FIG. 10A, in particular, this database model ...". Page 29 [0075] should recite in line 12 "370". The database" model may also include field 378 in FIF. 10B ..." since the other fields refer to FIG; 10B. In the same paragraph line 21 should recite "fields 368, 377, 378, 380, 382, and 384, ash shown in FIG. 10B. The ...". Page 30, line 3 recites "fields 386-387, as shown in FIF. 10C. The database model ... field 389 ...; a field 390 ...; a field 391 ... (field 388), ..., fields 389 and 390 as shown in FIG. 10C. The database model ... field 392 ...; and field 394 ...field 392 ... (field 391). The database model ... field 396 ...". This section does not describe FIG. 10C but

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describes the fields in FIG. 10B. Only fields “370” and “391” are found in FIG. 10C.

Page 32, para. [0080] recites “the fields of 10G but concludes with “454”, as shown in FIG. 10i in the illustrative example. What illustrative example is shown? Pg. 33 recites in lines 1-4 in FIG. 10i. As further shown in FIG. 10i in illustrative example, the total assets ... (field 456), ... (field 458), ... (field 460 minus field 462), ... (field 470) and stored in field 472”. Only fields “456, 470, and 472” are shown in FIG. 10i. Field “458” is shown in FIG 10G; Fields “460” and “462” are shown in FIG. 10H. Page 33 para. [0083] recites “Referring to FIG. 10K in the illustrative example, a field 504 ..., ... (field 500) and (field 502), as shown in FIG. 10J. These fields are not in FIG. 10J. They are in FIG. 10H; “Step 174, FIG. 3”, steps 572, 570, and 58 not in spec. in reference to FIG. 12A; Step 590 not in reference to FIG. 1B; “Step 186, FIG. 3” not in spec. in FIG. 13A; Step 840 missing in FIG. 15A description; The following other steps are missing in the specification in reference to the FIG. descriptions: Step 964, FIG. 15E; “Step 198, FIG. 3” and Step 1102 in FIG. 18; “Step 1090, FIG. 18” not in FIG 19; “Step 200, FIG. 3” not in FIG. 21A; “Step 202, FIG. 3” and “DERIVED FROM Step 1108” is missing; “Step 1194, FIG. 25” and Step 1208 in FIG. 28; “Step 1194, FIG. 25” in FIG. 30A; “Step 1238” in FIG. 30B; “Step 934, FIG. 25” and Step “986” in FIG. 31 A; “Step 1258, FIG. 31B is missing; “Step 1194, FIG. 25” not in FIG. 32; “Step 934, FIG. 25” missing in FIG. 33; “Step 1194, FIG. 25” not in FIG. 34A; and Step “1300” in FIG 34B missing in spec. description.

Correction is required. See MPEP § 608.01(b).

Drawings

The drawings are objected to because Part of the text is missing at the bottom of FIG. 16B; part of the text is unclear at the left side of FIG.'s 17B-17E; FIG. 18; FIG. 19 the "end" oval; FIG. 22; FIG. 21D; FIG. 23A the text "Step 1108"; FIG. number "FIG. 27" text; and FIG. 34A. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Fields 386, 387, 389, 390, 392, 394, and 396 in FIG. 10C; Field 400 and

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adjustments (field 401), as shown in FIG. 10E. Only field 400 is shown in FIG. 10E and adjustments (field 401) is shown in FIG. 10D; Fields 458, 460, 462, and 468 are not in FIG. 10i; and Step 1314; FIG. 30A, Steps 1126 and 1124; and FIG. 31A, step 1246.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Step 100, FIG. 1 not mentioned in reference to 2A; Steps 142, 144, and 146 are not in FIG. 2C; Step 154 missing from FIG. 2D; Steps 170 and 184 missing in FIG. 3; and the following are not mentioned in the specification in reference to "Step 176, in FIG. 3" not in FIG. 6; Step 178, FIG. 3 not in FIG. 7A; "Step 178, FIG 3" not in FIG. 8; "Step 178, FIG. 3" not mentioned in reference to FIG. 9; Step 1194, FIG. 25 in FIG. 35; "Step 1194, FIG. 25" and "Step 1132" in reference to FIG. 36; "Step 1194, FIG. 25" not in spec. in FIG. 37; "Step 1194, FIG. 25" not in spec. in FIG. 38; and "Step 1194, FIG. 25" not in spec. in FIG. 39.. Corrected drawing sheets in compliance with 37 CFR

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1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 52-75 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

"Creating a computerized database model for each commercial loan in the selected group of loans, said data base comprising tabulated data including: (i) recovery rate information comprising borrower cash flow, projected net payments, and related collateral; and at least one of the following: (ii) borrower cash flow information, (iii) loan information including principal amount, interest rate, unfunded commitment amounts,

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credit information, and amortization information, (iv) loan pricing parameters, (v) loan cash pay rate information, (vi) loan collateral value, (vii) workout parameters including borrower debt capacity and liquidation information, and (viii) loan discounted cash flow valuation; determining anticipated cash flows from each commercial loan in the selected group of loans; establishing a purchase price for each loan within the portfolio”, the SPE issuing investment rated securities for the loan portfolio”, and “adding loans to, and/or subtracting from the loan portfolio in order to emulate the cash flow and recovery characteristics of a portfolio of performing loans” are not found in Applicant’s Specification. Applicant is respectfully requested to point out where these limitations are found in the disclosure. Claims 53-59 and 62-75 are also rejected for their dependency from a rejected claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 52-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 52 recites “selecting loans from a group of commercial loans ...;”. It is vague and indefinite who or what is performing the selecting of the loans. Does Applicant mean a person or a computer is doing the selecting of the loans? It is unclear how a selection can occur without someone or something performing the selection. Also, “determining” is very vague and indefinite since it is

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unclear how the anticipated cash flows can be determined because it cannot be determined which commercial loans have been selected from the group of loans.

Further, the establishing of a purchase price is vague and indefinite since there has not been any price mentioned prior to this step. It is unclear how a purchase price can be established for each loan. Claim 61 has a similar problem. Claim 70 recites "minimal restrictive covenants" which is not a positive recitation in the claim and unclear what Applicant means by "minimal restrictive covenants". Claims 53-60 and 62-75 are also rejected because of their dependency from a rejected claim.

Claims 52-75 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: Claims 52 and 61 needs the step of "providing the tabulated information for the portfolio to one or more credit agencies in such form so that the one or more credit agencies independently examines each loan and its corresponding recovery rate information and loan discounted cash flow valuation". Something needs to be done with the tabulated information in the data base and by adding this step to claims 52 and 61 something is being done with the tabulated information.

Answer to Arguments With Traverse

Applicant's election with traverse of claims 52-75 in the reply filed on 12/17/08 is acknowledged. The traversal is on the ground(s) that a search of the art for one group

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of claims will necessarily include a search of the art for the other groups of claims and it is believed that the burden on the Examiner to examine all claims in a single application is less than the burden on Applicant/public to prosecute/search more than one application/patent. This is not found persuasive because Group I, claims 41-51 are drawn to a database with data corresponding to a plurality of loans in a loan portfolio which have at least 30% of the portfolio market value and for each commercial loan the database comprises tabulated data, classified in class 707, subclass 100 and Claims 52-75, drawn to a method for selecting loans from a group of commercial loans to create a loan portfolio, creating a computerized database for each commercial loan in the selected group of loans, determining anticipated cash flows from each commercial loan, establishing a purchase price for each loan, and adding loans to and subtracting loans from the loan portfolio in order to emulate the cash flow and recovery characteristics, classified in class 705, subclass 36r. The invention I, claims 41-51 are classed in a different class and subclass from the invention II, claims 52-75. Also, invention I, claims 41-51 has a different mode of operation than Invention II. Both inventions have different scopes. Thus the search does cause a serious burden on the Examiner in searching two different classes and subclasses of invention.

The requirement is still deemed proper and made FINAL.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

“Microsoft Access; Relational Database Management System for Windows: Chapters 2-4” disclosed creating a data base, managing database objects, and adding and editing.

Ryan et al (US 5,839,118) disclosed optimization and loan monitoring.

Kirksey (US 6,460,021) disclosed a debt obligation.

Keyes et al (WO 02/097574) disclosed portfolio cash flow valuation.

Lee et al (WO 03/052549) disclosed default insurance.

Remarks: A prior Art Rejection has not been given. It is suggested that Applicant incorporate the allowable subject matter from Patent No. 6654727 into the independent claims of the instant application so it can be allowed and to amend the claims to address the claim objections and rejections.

Also, it is respectfully requested that the non-patent references listed on the 1449 form filed 01/08/08 be submitted if Applicant wants them to be considered for the instant application since the Examiner has not been able to get access to them.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3696

May 25, 2009